

Contract Performance Management

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Agenda

- Talk about tools to establish expectations and manage vendor performance
- Walk through a seven-step process for managing vendor performance
- Discuss use of corrective action plans
- Explain how to initiate contract termination



Tools to Establish Expectations

In the RFB/RFP

- Define deliverables that must be met
- Include Performance benchmarks - standard to which requirements must be met

Work Plan

- Vendor submits in response to RFB/RFP
- Details:
 - Activities
 - Timeline
 - Responsible parties
 - Outcomes

Kick Off Meeting

- Include the vendor and end users
- Review the contract requirements
- Explain how to do business with the State



Tools to Manage Vendor Performance

Surveys

- Contractor issues to end users
- Review results and use them to identify issues, areas for improvement

Inspections

- Can be scheduled or as needed
- Explain what will be inspected and how results will be used

Relationship Manager

- Every contract has two or more parties that must have their needs met
- Different responsibilities for agency vs. enterprise contract

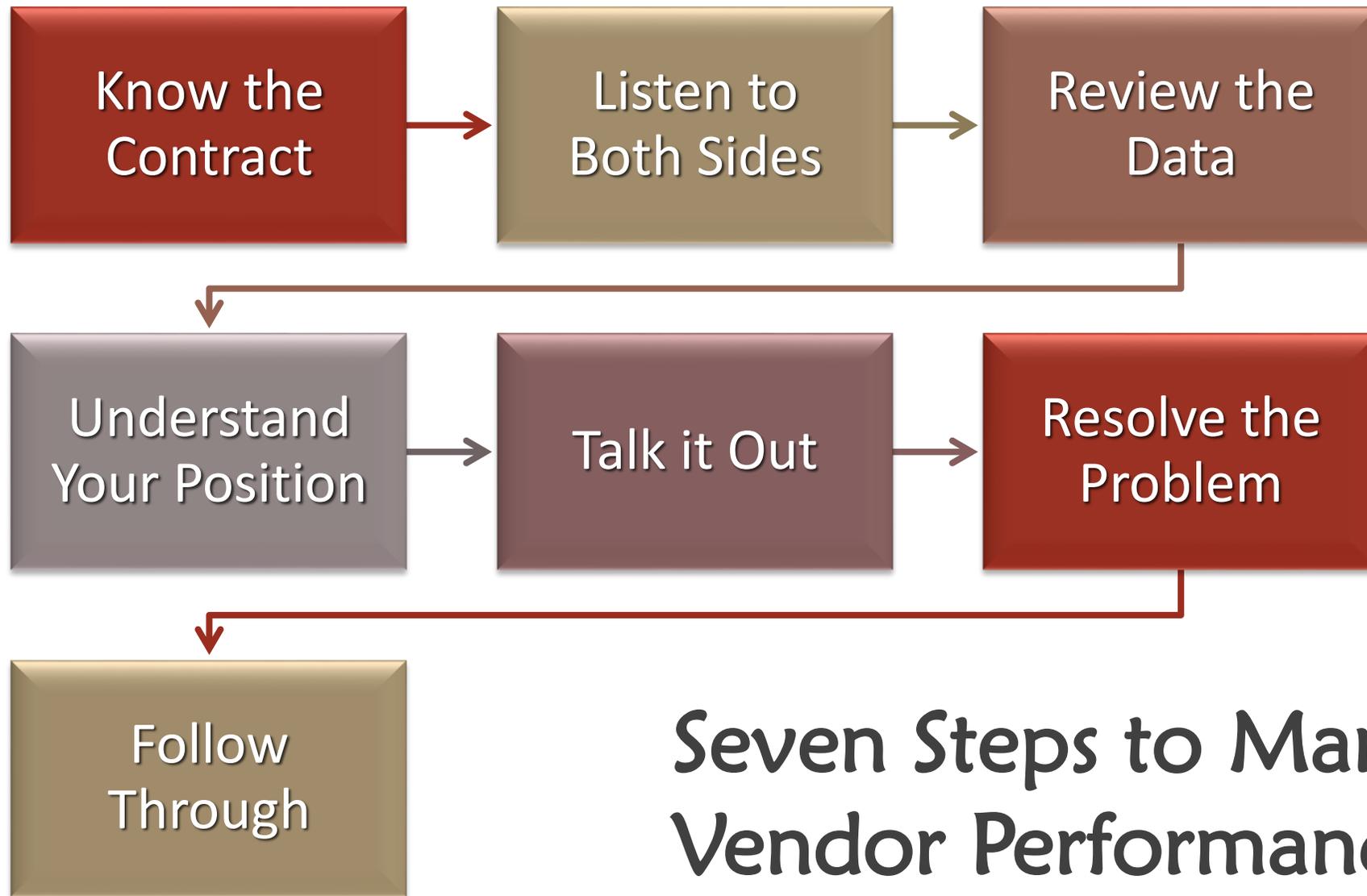


Setting the Stage...

You're a contract manager and have just been notified by your end users that your contractor isn't performing and you need to take action.

Where do you start?





Seven Steps to Manage Vendor Performance



Step 1: Know the Contract

- The Contract includes not only the signed document but also:
 - RFB/RFP
 - As issued by the State and vendor's response
 - Amendments
 - Significant correspondence
- Understand what both the vendor and the State is contractually obligated to do before deciding on appropriate action



Step 2: Listen to Both Sides

- Objectively listen to both sides and gather as much information as possible
- Focus on the facts:
 - Who, what, where, when, why and how
- Use facts/data to make informed decisions
- Align the information gathered with contract/performance requirements
- Ensure that scope creep hasn't occurred



Step 3: Review the Data

- What action has already been taken
- What documentation exists
 - Emails
 - Invoices
 - Meeting minutes

TIP/TRICK

Now would be a good time to create an issue log!



Issue Log

COMPONENTS

- Description of the issue
- Date the issue occurred
- Identify who is responsible for resolving
- Establish deliverables
- Deadline for completion
- Responsible party

HOW TO USE AN ISSUE LOG

- Share the log first with your end users to ensure you accurately captured the issue
- Share the log with the contractor and ask them for feedback or response to outstanding issues
- Use the log as a guide for conversations with the contractor
- Monitor deliverables
- Indicate when tasks are completed



Step 4: Understand Your Position

- Confirm with your end users:
 - What is the desired outcome?
 - What will successful resolution look like?
 - How will we measure progress?
- Be sure that the State is meeting its contractual obligations
- Confirm that the contractor wants to continue providing goods/services
- Do you have a Plan B for if this contractor doesn't work out?



Step 5: Talk it Out

- Make sure you are communicating with the right person in the organization
- If you need to escalate the issue, do you know who you should be talking to?

TIP/TRICK

Require the vendor to provide an escalation process in their response to the RFP/RFB



Step 6: Resolve the Problem

- Two types of remedies- informal and formal
- Typically start with informal remedy and move to formal but the type of remedy and approach will depend on:
 - Complexity of the contract
 - Risk level associated with vendor non-performance
 - Investment of State resources and time
- Explain your problem resolution process in your RFP/RFB so there are no surprises when an issue arises



TIP/TRICK

Step 6: Resolving Problems

- Typically start with informal remedy and move to formal if not resolved
- Consider including a Probationary Period in your RFB/RFP

Explain your problem resolution process in your RFP/RFB to set expectations



Informal vs. Formal Remedies

Informal

- Phone call, email
- Ask for resolution
- Document

Formal

- Probation
- Corrective Action Plan



Formal Remedy: Probation

- Explain what action/inaction could result in probationary period
- Period needs to be defined
- How vendor will be measured during probation
- Indicate what happens if vendor fails to perform during probation
 - Liquidated damages
 - Termination



Formal Remedy: Corrective Action Plan

- Goal of corrective action is to:
 - Resolve existing issues
 - Safeguard against future issues
 - Raise vendor performance to level required to be successful
- A request for a corrective action plan should not come as a surprise to the vendor
 - Informal remedies leading up to corrective action
 - Ongoing discussions
 - Sharing of the Issue Log



Corrective Action Plan

- The request for a plan should:
 - Summarize how you got to where you are
 - Be specific about the issues (attach the Issue Log)
 - Provide a deadline for response
 - Allow vendor opportunity to ask questions or request additional information if needed
 - Detail what the vendor must include in their response



Corrective Action Plan

- Specific elements to have vendor address:
 - Identify the root cause for each problem identified
 - Submission of a detailed work plan including timeframes for completion
 - Resources and tools that will be used to improve the quality of each service area
 - How successful corrective actions will be measured and documented to the agency



Step 7: Follow Through

Talk

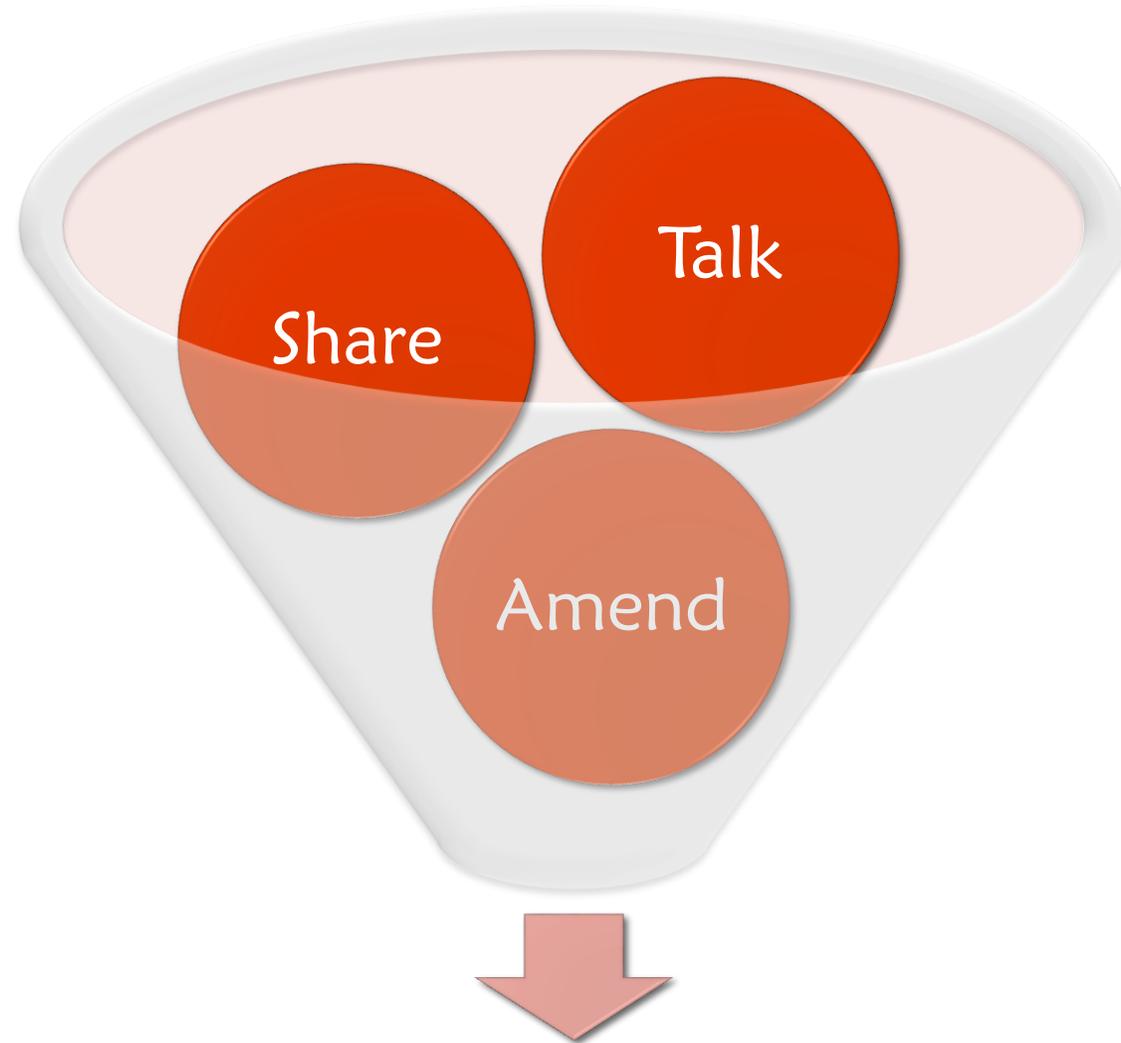
- Communicate regularly with end users and vendor

Share

- Add results of discussions to the Issue Log
- Provide all stakeholders with updated issue log

Amend

- If needed, amend contract to address new requirements resulting from corrective action



Follow Through



When All Else Fails...Termination

- If vendor fails to deliver on corrective action plan or other remedy, you may need to consider contract termination
- Must weigh the benefits/risks of preserving the relationship when deciding on termination
- Always a last resort



Contract Termination for Cause

- Contractor fault for non-performance
- Burden of proof on State
 - Must be supported by documentation
- Consult with procurement, management, legal
- Requires XX days notice in writing as stated in contract
 - Vendor has right to cure that starts when notice is issued
 - Define what you will accept for a cure



Next Steps

- Enact your Plan B (perform service in-house, move to next vendor, issue new solicitation, etc.)
- Work with outgoing contractor to:
 - Transfer files, documents
 - Assist the new contractor
 - Obtain required reports or payments
- Establish performance expectations with the new contractor and manage performance throughout life of the contract



Wrap Up/Questions

Thank you!

